

GRAPE PURCHASE CONTRACTMADE 9<sup>th</sup> <sup>NOVEMBER</sup>  
AUGUST, 1988

Between

SALTRAM WINE ESTATES PTY LTD

("the Company")

and

GLOBE WINES PTY LTD

("the Grower")

BLAKE DAWSON WALDRON  
Solicitors.  
225 George Street  
SYDNEY. N.S.W. 2000

Tel: 258 6000  
D.X. 355  
Ref: 13.CTC

**(COPY)**

GRAPE PURCHASE CONTRACT

AGREEMENT dated the 4<sup>th</sup> day of <sup>NOVEMBER</sup> ~~August~~, 1988.

BETWEEN:

- (1) SALTRAM WINE ESTATES PTY LTD of Stockwell Road, Angaston in the State of South Australia (hereinafter called "the Company"); and
- (2) GLOBE WINES PTY LTD, a company incorporated in the State of New South Wales and having its principal office at 415 Victoria Avenue, Chatswood (trading as "Ken Marie Vineyard") (hereinafter called "the Grower").

WHEREAS:

- A. The Company is a wine maker carrying on business at Angaston, South Australia and elsewhere.
- B. The Grower carries on the business of grape growing at "Ken Marie Vineyard", Muswellbrook, New South Wales (hereinafter called "the property").
- C. By an agreement dated 22 June 1984 between the Company of the one part and Globe Wines Pty. Limited and Verona Vineyard Pty. Ltd. of the other part (hereinafter called "the 1984 Agreement") provision was made for the supply of grapes by Globe Wines Pty. Limited and Verona Vineyard Pty. Ltd. to the Company on the terms and conditions therein set out.
- D. By Agreement made 6 May, 1988 between Saltram Wine Estates Pty. Ltd. of the first part Globe Wines Pty. Ltd. of the second part Verona Vineyard Pty. Ltd. of the third part and Nihisu Pty Limited of the fourth part Verona Vineyard Pty. Ltd assigned all its right title and interest in and to the 1984 Agreement to Globe Wines Pty. Ltd and Saltram Wines Estates Pty. Ltd. and Globe Wines Pty. Ltd otherwise affirmed the terms of the 1984 Agreement.
- E. The Company wishes to ensure continuity of supply of grapes from the Grower and the Grower wishes to ensure continuity of disposal of its grapes from the property.
- F. The parties now wish to terminate the 1984 Agreement and provide for the supply of grapes from the Grower to the Company on the terms and conditions hereinafter set out.

NOW THIS AGREEMENT WITNESSES that:

1. (a) The parties hereby agree that the 1984 Agreement shall be terminated with effect from the date hereof.
- (b) This Agreement shall commence on the date hereof and terminate on the date that payment is received by the Grower from the Company with respect to the

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grapes supplied to the Company in the fifth harvest year unless earlier terminated in accordance with the provisions hereof.

- (c) For the purposes of this Agreement the expression "harvest year" shall refer to a calendar year commencing on 1 January and ending on 31 December and the first harvest year shall be deemed to commence on 1 January 1989 and successive harvest years shall be numbered accordingly; and "person" shall include persons, companies and other legal entities.

2. Subject to the provisions of this Agreement the Grower shall during the term of this Agreement supply and sell to the Company and the Company shall accept and purchase from the Grower the total production of grapes harvested on the property excepting the Special Reserve Grapes referred to in clause 17 hereof (which total production excluding any Special Reserve Grapes is hereinafter referred to as "the grapes") and the Grower shall not without the prior written consent of the Company (which consent shall be deemed to have been given in respect of any harvest year in which it has refused or failed to accept grapes from the Grower pursuant to the provisions of Clause 3 hereof) sell or offer to sell any of the grapes to any other person.


3. (a) Provided it has the authorisation of the Company the Grower shall promptly after harvesting the grapes:
- (i) supply the grapes to the Company in accordance with this Agreement; and
  - (ii) deliver the grapes:
    - (A) to a place in the Hunter Valley area to be nominated by the Company from time to time (hereinafter called "the delivery point");
    - (B) in good order and condition; and
    - (C) in containers of a type previously agreed between the parties as being acceptable to the Company.

- (b) The Grower shall be deemed to have the authorisation of the Company to supply the grapes if not later than three (3) clear days prior to the Company requiring delivery of the grapes the Company's field officer representative (who shall be identified from time to time by the Company to the Grower) has notified the Grower that the grapes



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are ready to be harvested. The Company may refuse to give its authorisation for the supply of the grapes or any of them only if:

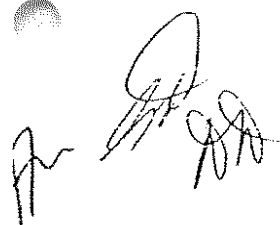
- (i) the vines on the property have been over-irrigated; or
  - (ii) such grapes are over-ripe, diseased, wilted, contaminated, or fail in any other way whatsoever to conform to the standard specified by the Company in respect of the particular variety of grapes to which such grapes belong.
- (bb) should a dispute arise between the Grower and Company as to the matters referred to in sub-clauses (i) and (ii) of clause 3(b) hereof it shall be determined in the manner referred to in clause 12 hereof.
- (c) In the event that:
- (i) the Grower is of the opinion that the grapes ought to be harvested by reason of:
    - (A) the advanced state of maturity of the grapes; or
    - (B) the risk that the grapes, or a substantial quantity thereof, are likely to be destroyed as a result of climate or weather conditions; and
  - (ii) the Company has not given its authorisation for the harvesting of the grapes,  
the Grower may give notice to the Company requiring the Company to give authorisation within a specified period (being a period of not less than 12 hours) from receipt of the notice and if the Company has not within the specified period given its authorisation the Grower shall be entitled to harvest the grapes and either:
    - (iii) deliver the grapes to the Company or its nominated representative; or
    - (iv) should the Company or its nominated representative refuse to accept delivery of the grapes the Grower may dispose of the grapes to any other person and shall be entitled to recover from the Company in damages the difference between the sale price of the grapes as so disposed of and the price which the Grower would have
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obtained from the Company pursuant to this agreement.

PROVIDED THAT

- (v) any dispute arising out of the operation of this sub-clause 3(c) shall be determined in accordance with Clause 12.
- (d) The Company shall not after it has given its authorisation for the harvesting of the grapes reject or refuse to accept from the Grower delivery of any of the grapes in a particular harvest year unless there has been a substantial deterioration in the quality or condition of the grapes or any of them between the date on which the Company notified the Grower of the authorisation and the time of delivery PROVIDED THAT such substantial deterioration shall be limited to a deterioration in the condition of the grapes on delivery which has occurred as a direct result of:
- (i) the actions (other than actions taken for the proper implementation of a request made by the Company pursuant to sub-clause 8(b) hereof) neglect or carelessness of the Grower or its servants or agents;
  - (ii) damage caused by earthquake storm tempest flooding or landslip; or
  - (iii) transportation or delivery of the grapes, and in such event the Company shall be entitled to refuse to accept delivery of the whole of such portion of the grapes which are subject to such substantial deterioration in quality or condition and shall be relieved of any obligation hereunder to pay for the grapes delivery and acceptance of which is refused:

PROVIDED HOWEVER that if the opinion of the Grower as to whether or not there has been a substantial deterioration in the quality or condition of the grapes differs from the opinion of the Company in that regard such difference shall be resolved in accordance with Clause 12 of this Agreement.

- (e) In the event that the Company fails to give its authorisation for the harvesting of the grapes not less than three (3) days prior to the date that the Company requires the grapes to be delivered the Grower shall be free to dispose of the grapes to any other person and the provisions of this Agreement shall not apply to the grapes so disposed of.
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- (f) In the event that the Company refuses to accept delivery of the grapes for any of the reasons provided in sub-clause 3(d) provided such reasons are in the event of a dispute upheld by the expert nominated pursuant to clause 12 hereof the Company may notwithstanding such refusal make an offer to purchase the grapes from the Grower at a spot price and the Grower shall be free to dispose of the grapes to the Company or to any other person and the provisions of this Agreement shall not apply to the grapes so disposed of.
4. (a) The Company shall pay to the Grower the price for the grapes determined in accordance with this clause within thirty (30) days after delivery.
- (b) The Grower shall pay the cost of transportation and delivery of the grapes to the delivery point and title to and risk in the grapes shall pass to the Company at the time the grapes pass over the side of the delivery vehicle at the delivery point PROVIDED HOWEVER that if the delivery point is located outside a radius of 35 kilometres from the property or if delivery involves travel outside that radius the Company shall reimburse the Grower the cost of transportation and delivery insofar as it relates to a distance in excess of 35 kilometres from the property.
- (c) The tonnage of all grapes delivered pursuant to this Agreement shall be determined in accordance with the weights indicated by the weighbridge at the delivery point or such other weighbridge as the Company may determine from time to time and the tonnage so determined shall, save in the case of manifest error, be accepted as final and binding for the purpose of this Agreement.
- (d) The Company shall furnish to the Grower copies of all weighbridge documents showing details of the date, consignment and quantity of the grapes delivered to it.
- (e) The price to be paid for the grapes sold and bought pursuant to this Agreement in the first, second and third harvest years shall be determined by the variety of grape supplied and in accordance with the formula set out in the First Schedule hereto.
- (f) (i) The price to be paid for the grapes sold and bought pursuant to this agreement in the fourth and fifth harvest years shall be determined by the variety of grapes supplied and shall never fall below the base price for each of the respective varieties
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referred to in the Second Schedule hereto PROVIDED ALWAYS that if the market value of such grapes as determined in accordance with sub-clause (ii) hereof exceeds such base price the market value is the price payable by the Company;

- (ii) The market value of the grapes shall be determined by the parties who shall consult in good faith and shall agree on market value for each variety of grape for the fourth and fifth harvest years by 15 December in the third and fourth harvest years respectively. The market value of the grapes in the fourth harvest year shall be determined by the parties by 15 December 1991. If the parties fail to agree on the market value of the grapes for the next harvest year by 15 December in any relevant year, the valuation shall be referred to Mr John Stanford, wine consultant of Milson's Point or his nominee who shall determine the market value of the grapes as an independent expert and not as an arbitrator and whose determination shall be final and binding on the parties.

The fees charged by Mr Stanford (or his nominee) for services as an expert valuer shall be borne in equal proportions by the Company and the Grower.

- (g) Notwithstanding anything in this clause contained, the price payable by the Company for grapes purchased under this Agreement shall be adjusted depending on the Baume level of such grapes in accordance with the table set out in the Third Schedule.

5. The Grower hereby covenants and agrees with the Company:

- (a) at all times upon request to furnish to the Company such information concerning the grapes as the Company may reasonably require;
- (b) to inform the Company from time to time in each harvest year when the grapes are about to become ready for harvesting;
- (c) at all times to allow the Company's authorised representatives access to the property on reasonable notice in order to inspect and examine the vines;

*[Handwritten signatures and initials]*

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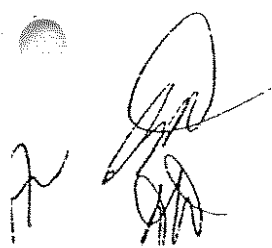
- (d) at all times to allow the Company's authorised representatives to inspect the books and accounting records of the Grower which relate to the operating costs of the type described in Clause 9 hereof;
- (e) not without the prior written consent of the Company to give or create any mortgage charge lien or other encumbrance affecting or which may affect the Company's right to purchase the grapes;
- (f) at all times to use its best endeavours to supply to and facilitate the purchase by the Company of all the grapes;
- (g) to harvest the grapes by mechanical means except to the extent that hand picking is necessary in any harvest year by reason of weather conditions making mechanical harvesting impracticable or with the prior consent of the Company;
- (h) to conform to the approved irrigation policy of the Company; and
- (i) except in accordance with Clause 7, not to plant new vines on the property without the prior written consent of the Company.

6. The Grower warrants to the Company;

- (a) that the Grower is the legal and beneficial owner of the property and is entitled to establish and develop a vineyard thereon and to sell the grapes harvested thereon to the Company in accordance with this Agreement;
- (b) that subject to the provisions of Clauses 15 and 16 the Grower has not entered into any contract with or given any option to any person other than the Company relating to the development of the vineyard or vineyards upon the property of the sale of the grapes during the term of this Agreement; and
- (c) that no person has or is entitled to obtain any lien charge or other security over the grapes.

7. Notwithstanding anything provided in this Agreement if before the end of the term of this Agreement the economic life of the vineyard or vineyards on the property or any part thereof reaches an end the Grower may upon having given the Company prior notice in writing of his intention so to do remove the vines therefrom and plant in lieu thereof vines of such varieties as may be agreed between the parties in writing, PROVIDED THAT nothing herein shall prevent the Grower replacing individual vines which have died.



8. (a) Subject to sub-clause 8(b) the Grower shall be responsible for the management of the vineyard or vineyards upon the property and will manage them in accordance with the best viticulture practices using its best endeavours to produce grapes of a quality at least as good as those produced on the property heretofore.
- (b) The Company may from time to time and at any time request the Grower to carry out at the Grower's expense (subject to any right of reimbursement arising under Clause 9 hereof) such practices in relation to the management of the vineyard or vineyards on the property as the Company or its technical experts consider necessary or expedient in order to ensure production of good quality grapes suitable for winemaking and the Grower will comply with such requests.
9. (a) The Grower shall within a reasonable time after the end of each harvest year furnish to the Company an audited schedule of operating costs showing the actual costs of producing and harvesting grapes on the property during the harvest year just ended and the schedule shall set out the amount expended by the Grower in relation to the production of grapes on the property so far as is practicable under the following headings:
- Labour
  - Chemicals
  - Fertilizers
  - Machinery
  - Fuel
  - Pruning
  - Harvesting and Management
- (b) The Company agrees to pay to the Grower within 30 days of receipt of the audited schedule of operating costs for the preceding harvest year in respect of each harvest year during the term of this Agreement an amount equal to the difference if any in the harvest year just ended between:
- (i) the increase in costs if any in the schedule produced by the Grower for the said harvest year over and above the costs in the schedule provided by the Grower for the immediately preceding harvest year; and
  - (ii) the increase in the Consumer Price Index for Sydney during the calendar year corresponding with the harvest year just ended as applied to the costs in the preceding harvest year,
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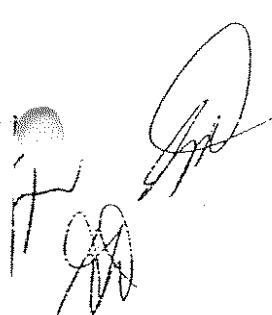
PROVIDED THAT

- (iii) the Company shall be entitled to refuse to pay any increase in costs which is not verified by the production of a reasonable number of representative bona fide quotations (if available) from contractors providing or offering to provide services to the Grower during the harvest year; and
- (iv) there shall be excluded from the calculation of any amount payable hereunder any cost incurred by the Grower by reason of the use of non-mechanical harvesting for reasons other than those expressly stated in paragraph 5(g).

For the purposes of this Clause 9 the expression "harvest year" includes 1 January, 1988 to 31 December, 1988.

10. (a) If either party makes default in the performance or observance of its obligations hereunder the other party may by notice in writing to the defaulting party determine this Agreement provided that if the default is one which is capable of remedy the party not in default shall not exercise the right of determination unless it has first given to the defaulting party notice in writing requiring the default to be remedied within the time specified on the notice (being not less than fourteen (14) days) and the defaulting party has failed to remedy the default within such time.
- (b) Notwithstanding any other provision of this Agreement the Company may terminate this Agreement forthwith in the event that Globe Wines Pty Ltd:
- (i) has a receiver or receiver and manager appointed to its undertaking or assets or any part thereof or suffers any provisional liquidator to be appointed or goes into liquidation whether voluntary or otherwise;
  - (ii) suffers any material change in its organisation management direction or control.
- (c) In the event that the property or any substantial part thereof is resumed or compulsorily acquired the parties agree to consult in good faith with a view to determining the effect thereof on the parties' respective valuable interests under this Agreement.

- (d) Any termination of the Agreement pursuant to this Clause or Clause 16 shall be without prejudice to any rights or liabilities of either party which have arisen or been incurred prior to the date of such termination.
11. (a) In the event that there is introduced during the term of this Agreement any value added, retail or other similar indirect tax, or that sales tax is imposed on food or clothing, the parties shall consult as to whether any increase in the Consumer Price Index for Sydney resulting therefrom shall for the purposes of this Agreement be discounted and if so by what amount.
- (b) In the event that the Consumer Price Index for Sydney has not been published at the time at which any calculation involving its use is to be made hereunder the parties shall rely on the estimate provided by the Commonwealth Statistician's Office and shall make any appropriate adjustment upon publication.
12. Where any provision is made in this Agreement for the determination of any matter or dispute as between the parties (excluding sub-clauses 4(e) and 4(f)) and such matter or dispute cannot be agreed between the parties the matter or dispute shall be referred by any one or more of the parties within a period of twenty four (24) hours of the dispute arising to the said John Stanford or his nominee or Harold Tullock of the Hunter Valley or his nominee who shall determine the matter or dispute if possible within twenty four (24) hours as an expert and not as an arbitrator and whose determination shall be final and binding on the parties.
13. Any notice required to be given under this Agreement may be given in writing and shall be deemed to have been duly given if hand delivered to the address of the party appearing at the commencement of this Agreement or in the event that such notice is despatched by mail shall be deemed to have been received fourteen (14) days after the notice has been placed in a post box PROVIDED THAT any notice to be given under sub-clause 3(c) and any authorisation to be given by the Company may be given orally (in person or by telephone) to a responsible officer or agent of the party for whom it is intended and shall be confirmed in writing in accordance with this Clause.
14. Nothing in this Agreement shall create any partnership joint venture or agency relationship between the parties.

15. (a) Subject to sub-clause 15(b) neither party may assign this Agreement or all or any part of its rights hereunder to any other person without the prior written consent of the other party which consent may be refused without the party refusing consent assigning any reason therefore.
- (b) The Grower with the consent of the Company (such consent not to be unreasonably withheld) may assign this Agreement (subject to its obligations hereunder) in its entirety to any person to whom the property is to be or has been transferred.
16. Notwithstanding anything in this Agreement contained in the event that the Grower gives to the Company prior to 30 June in any year notice of its intention to sell transfer or otherwise dispose of the property to any other person, then this Agreement shall automatically be terminated with effect from such 30 June and neither party shall be under any further obligation to the other party from the date of such termination.
17. (a) The Grower may at its discretion elect by 1st December in any harvest year to reserve to itself certain grapes (herein called "the Special Reserve Grapes") from any of the grapes which would otherwise have been supplied by it to the Company pursuant to this agreement in that harvest year.
- (b) The Special Reserve Grapes shall:-
- (i) not exceed ten (10) tonnes per variety in any one harvest year;
- (ii) in accordance with best industry practices be made into wine and bottled by the Company at a price acceptable to the Grower unless the Company by 15 December in the relevant harvest year declines for any reason so to do whereupon the Grower may at its expense arrange their making and bottling with another wine maker the selection of which shall be at the sole discretion of the Grower;
- (iii) have applied to the bottling of each variety a label which shall be designed by agreement between the Grower and the Company or failing such agreement by the Grower alone provided that such label shall always contain the words "Ken Marie".
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(c) The Special Reserve Grapes and the wine produced therefrom shall always be and remain the property of the Grower.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first before mentioned.

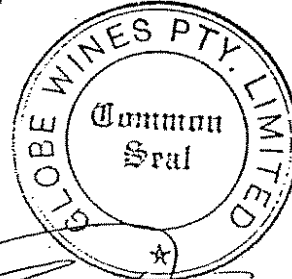
THE COMMON SEAL of SALTRAM WINE ESTATES PTY LTD was hereunto affixed by authority of its Board of Directors in the presence of:

*[Handwritten signature]*



THE COMMON SEAL of GLOBE WINES PTY LTD was hereunto affixed by authority of its Board of Directors in the presence of:

*[Handwritten signature]*



*[Handwritten signature]*

THE FIRST SCHEDULE

## FIXED PRICES PER TONNE

<u>YEAR</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Chardonnay	\$2,000.00	\$2,000.00	\$ 1,800.00
Traminer	\$ 600.00	\$ 600.00	\$ 600.00
Sauvignon	\$1,200.00	\$1,200.00	\$ 1,000.00

THE SECOND SCHEDULE

## BASE PRICES PER TONNE

<u>YEAR</u>	<u>1992</u>	<u>1993</u>
Chardonnay	\$1,600.00	\$1,600.00
Traminer	\$ 600.00	\$ 600.00
Sauvignon Blanc	\$ 900.00	\$ 900.00

THE THIRD SCHEDULE

(Clause 4(g))

<u>Baume</u>	<u>Traminer</u>	<u>Chardonnay</u>
From 9.0 to less than 9.5	Less 10%	Less 15%
From 9.5 to less than 10.0	Less 5%	Less 10%
From 10.0 to less than 11.5	Base Price	Base price
From 11.5 to less than 12.0	Plus \$25 per tonne	Base Price
From 12.0 or greater	Plus \$25 per tonne	Plus \$25 per tonne